

### **REMARKS**

Applicant respectfully requests reconsideration. Claims 27-54, 56, 60 and 63-102 were pending in this application. Claims 103-106 are being added. A number of claims are being amended. Claim 92 is being cancelled. No new matter is being added. Accordingly, claims 27-54, 56, 60-65, 67-91 and 93-102 are now pending in the application with claims 27, 56, 75, 84 and 93 being independent.

#### **Allowable Subject Matter**

Applicant acknowledges the finding in the Office Action that claims 27-54, 60 and 65 are allowed and that claims 64, 67, 76, 83, 85, 92 and 95 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claim. Claim 84 is being amended to include the recitation of claim 92, thereby placing claim 84 in condition for allowance.

#### **Interview with Examiner**

Applicant wishes to thank the Examiner for the telephone interview conducted on April 11, 2007. Examiner Hodges, Examiner Santiago, Alexei Erchak (Inventor and Founder of Luminus Devices, assignee of this application), Robert Walat (Attorney for Applicant), Caleb Franklin (In-House Counsel for Luminus Devices) and Gianni Taraschi (Patent Specialist for Luminus Devices) participated in the interview. In the interview, the rejections and prior art relied on in the Office Action including U.S. Patent No. 3,739,217 (Bergh) and U.S. Patent No. 5,181,220 (Yagi) were discussed. Applicant also discussed U.S. 6,504,180 (Heremans) and U.S. Patent Application Publication No. U.S. 2005/0145864 (Sugiyama) which were identified by the Examiner prior to the interview. Applicant is filing herewith an IDS to cite Sugiyama; Heremans is already of record.

Applicant discussed amending certain independent claims to recite that "a majority of the non-periodic pattern" has order and argued that the prior art fails to teach or suggest a device that included such a feature in combination with other features. Applicant is responding to the Office Action consistent with the discussion in the interview.

Rejection of Claims in View of Yagi

Claims 56, 63, 66, 68, 70-74, 93, 94, 96 and 98-102 were rejected under 35 U.S.C. §103(a) as being unpatentable over Yagi.

Independent claim 56 has been amended to recite that the non-periodic pattern comprises a plurality of non-concentric holes. In contrast, the pattern in Yagi is formed of concentric rings. Therefore, this claim limitation is not taught or suggested by Yagi. Moreover, one of ordinary skill in the art would not have been motivated to modify the pattern in Yagi to include such non-concentric holes. The concentric rings in Yagi appear to be an important aspect of the device which promote desired light emission. Accordingly, Yagi would teach away from such modification. For at least these reasons, independent claim 56 is patentable in view of Yagi. Claims 63, 66, 68 and 70-74 depend from claim 56 and are patentable over Yagi for at least this reason.

Independent claim 93 has been amended to recite that a majority of the features of the non-periodic pattern have substantially the same size and a majority of the nearest neighbor distances between features are substantially the same. Instead, as noted above, Yagi teaches a pattern comprising concentric rings. Therefore, Yagi fails to teach or suggest a pattern in which a majority of the features have substantially the same size and a majority of the nearest neighbor distances between features are substantially the same. Moreover, one of ordinary skill in the art would not have been motivated to modify the pattern in Yagi to have these size and nearest neighbor distance limitations. As noted above, the concentric rings in Yagi appear to be an important aspect of the device which promotes desired light emission. Accordingly, Yagi would teach away from such modification. For at least these reasons, independent claim 93 is patentable over Yagi. Claims 94, 96 and 98-102 depend from claim 93 and are patentable over Yagi for at least this reason.

Accordingly, Applicant respectfully requests withdrawal of the claim rejections on this ground.

Rejection of Claims in View of Bergh

Claims 56, 63, 66, 68-73, 75, 77-82, 84, 86-91, 93, 94, 96-101 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bergh.

Claims 56 and 75 have been amended to recite that a majority of the non-periodic pattern has order. In contrast, Bergh discloses a roughened surface and fails to teach or suggest a non-periodic pattern, wherein the majority of the pattern has order. Moreover, one of ordinary skill in

the art would not have been motivated to modify Bergh to include such a pattern. For at least these reasons, independent claims 56 and 75 are patentable over Bergh. Claims 63, 66, 68-73 and 77-82 depend from either claim 56 or 75 and, thus, are also patentable over Bergh for at least these reasons.

Independent claim 84 has been amended to include the limitation of claim 92 which does not stand rejected on this ground because this limitation is not taught or suggested by Bergh. Therefore, claim 84 and claims 86-91, which depend from claim 84, are patentable in view of Bergh.

Claim 93 has been amended to recite that a majority of the features of the non-periodic pattern have substantially the same size and a majority of the nearest neighbor distances between features are substantially the same. Bergh teaches a roughened surface, wherein a majority of the features do not have substantially the same size and a majority of the nearest neighbored distances between the features are not substantially the same. Therefore, Bergh fails to teach or suggest each claim limitation. Moreover, one of ordinary skill in the art would not have been motivated to modify Bergh to meet this claim limitation. For at least these reasons, claim 93 is patentable over Bergh, claims 94 and 96-101 depend from claim 93 and are patentable over Bergh for at least this reason.

Accordingly Applicant respectfully requests withdrawal of the claim rejections on this ground.

#### New Claims

New claims 103-106 depend from claims which are patentable over the cited references for reasons noted above. Thus, these new claims are also patentable for at least those reasons.

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Respectfully submitted,

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